

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BETHESDA SOFTWORKS LLC

:

v. : Civil Action No. DKC 09-2357

:

INTERPLAY ENTERTAINMENT
CORPORATION

ORDER

On June 6, 2011, Plaintiff Bethesda Softworks filed two motions to vacate certain confidentiality restrictions previously imposed by the court, at least as those restrictions applied to (a) Bethesda's memoranda in support of its motion for a preliminary injunction and (b) certain exhibits also submitted in support of its motion. (ECF Nos. 116, 124). The court originally restricted the dissemination of these documents when Defendant Interplay Entertainment Corporation raised concerns that they contained trade secrets. (ECF No. 97, at 4). At the hearing on Bethesda's motion for preliminary injunction, the parties were able to make use of these documents without violating the confidentiality restrictions.

Bethesda's motion to vacate will be denied without prejudice. As counsel for Bethesda indicated at the preliminary injunction hearing, the gaming industry is a "very competitive business" wherein new developments, strategies, and plotlines -

and even the existence of a project - are closely guarded. Interplay correctly observes that the documents in question contain technical information and game/story information of a type that can warrant protection. *See Minter v. Wells Fargo Bank, N.A.*, 258 F.R.D. 118, 123 (D.Md. 2009) ("[T]rade secrets are more than 'sensitive business information,' they are sophisticated, innovative methods or inventions that are the result of human creativity and ingenuity."). Furthermore, the disclosure of such information seems unnecessary at this time. Nevertheless, as the court recognizes that these materials may be relevant at trial, Bethesda is invited to renew its motion when it becomes clear that the materials will be used at trial.

Also pending are two related motions to seal "temporarily" the memoranda that Bethesda submitted in support of its motion for a preliminary injunction. (ECF Nos. 116, 124). Because these memoranda reference and quote information covered by the confidentiality restrictions, they should remain sealed. The public's right of access to court records is not substantially infringed, given that redacted copies of the memoranda are available on the public docket.

Accordingly, it is this 5th day of August, 2011, by the United States District Court for the District of Maryland,
ORDERED that:

1. The motions to vacate confidentiality restrictions and to temporarily seal the memoranda and exhibits (ECF Nos. 116, 124) BE, and the same hereby ARE, GRANTED in part and DENIED in part;

2. The confidentiality restrictions will remain in place without prejudice to Bethesda's right to seek their removal later;

3. All presently sealed memoranda and exhibits pertaining to Bethesda's motion for preliminary injunction will remain sealed; and

4. The clerk will transmit copies of this order to counsel for the parties.

/s/
DEBORAH K. CHASANOW
United States District Judge